

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DONNIE COLLINS,

Petitioner,

v.

**CRIMINAL ACTION NO.: 3:13-CR-44
CIVIL ACTION NO.: 3:15-CV-22
(GROH)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court for consideration of a Report and Recommendation (“R&R”) issued by United States Magistrate Judge James E. Seibert. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Seibert for submission of an R&R. On July 11, 2016, Magistrate Judge Seibert issued his R&R, in which he recommends that this Court deny the Petitioner’s second motion to appoint counsel [ECF No. 82],¹ grant the Petitioner’s motion to amend or supplement his 28 U.S.C. § 2255 petition [ECF No. 84] and deny and dismiss with prejudice the Petitioner’s § 2255 petition [ECF No. 68].

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made.

¹ All ECF numbers referenced in this Order correlate to criminal action number 3:13-CR-44.

Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).


In this case, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Seibert's R&R were due within fourteen days after being served with a copy of the R&R. The Petitioner was served with the R&R on July 13, 2016. To date, neither party has filed objections. Accordingly, the Court will review the R&R for clear error.

Upon careful review of the record, and finding no error, it is the opinion of this Court that Magistrate Judge Seibert's Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. The Court **ORDERS** that the Petitioner's second motion to appoint counsel [ECF No. 82] is **DENIED**. The Court **GRANTS** the Petitioner's motion to amend or supplement his § 2255 petition [ECF No. 84]. However, upon consideration of the Petitioner's original § 2255 petition and supplemental arguments, the Court **ORDERS** that the Petitioner's § 2255 petition [ECF No. 68] is **DENIED** and **DISMISSED WITH PREJUDICE**.

Upon an independent examination of the record, the Court finds that the Petitioner has failed to make "a substantial showing of the denial of a constitutional right," and therefore **DENIES** a certificate of appealability. See 28 U.S.C. § 2253(c)(2).

The Clerk is **DIRECTED** to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* Petitioner by certified mail, return receipt requested.

DATED: October 18, 2016


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE